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Via ECF

Hon. Valerie Caproni
United States District Judge
Southern District of New York
40 Foley Square, Room 240
New York, New York 10007

Re: *David A. Joffe v. King & Spalding LLP*
17 Civ. 3392 (VEC)(SDA)

Dear Judge Caproni:

We write on behalf of Defendant King & Spalding concerning a document referenced in the Proposed Supplemental Joint Pretrial Order filed yesterday by the parties. Dkt. No. 284.

On October 26, 2021 at 4:54 pm, Plaintiff first served Plaintiff's Proposed Exhibit P-197, which purports to revise in several respects the damages assumptions and calculations of Plaintiff's damages expert, Kristin Kucsma. As indicated during yesterday's telephone conference, K&S objects to Plaintiff's untimely disclosure. *See* Fed. R. Civ. P. 26(a)(2)(D)(i) (expert disclosures must be made "at least 90 days before the date set for trial"); Fed. R. Civ. P. 26(e) (supplemental disclosures must be made "in a timely matter"); Fed. R. Civ. P. 37(c) (party who fails to provide supplemental disclosures as required by Rule 26(a) or (e) may "not [be] allowed to use that information ... at a trial"). Your Honor indicated that the Court would consider this issue further at the November 2, 2021 final pretrial conference. Oct. 27, 2021 Tr. at 14:10-15:2.

In response to Defendant's objection to P-197, Plaintiff indicated that he will produce additional materials on October 29, 2021. Dkt. No. 284 at 2. In light of Defendant's objection to Plaintiff's already untimely production, Defendant also objects to Plaintiff's unilateral extension of time to submit such additional materials, which will improperly and materially prejudice Defendant's ability to prepare for trial.

Respectfully submitted,

By: /s/ Joseph Baumgarten

cc: Counsel of record (via ECF)